

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: STEVEN I. LOCKE
U.S. MAGISTRATE JUDGE

DATE: 4/10/2019
TIME: 11:00 am

CASE: CV 14-5924(SIL) Hussain v. 661 Northern Blvd., LLC et al

TYPE OF CONFERENCE: MOTION IN LIMINE FTR: 11:28-12:09

APPEARANCES:

For Plaintiff: Vivianna Morales
Louis Pechman
Lillian Marquez

For Defendant: Francis Giambalvo

THE FOLLOWING RULINGS WERE MADE:

- ☐ Scheduling Order entered.
- ☐ The court has adopted and So Ordered the joint proposed scheduling order [] submitted by the parties.
- ☒ Other: Defendants motion in limine, DE [120], is granted in part and denied in part for the reasons set forth on the record.

The motion to preclude Plaintiffs other than Hussain and Bartunek from testifying is denied. The motion is based on two emails that Defendants sent to Plaintiffs concerning certain witnesses to which they received no response. While the information sought was relevant, this litigation has been pending for five years, the Defendants themselves identified these Plaintiffs as individuals having relevant information, and yet never noticed their depositions or made a motion to compel. Instead they waited until the eve of trial and sought the harshest possible sanction, which the Court concludes is inappropriate under the circumstances. On this basis the motion is denied.

Further, the motion to preclude evidence of damages is denied. The statements of damages, previously provided, which the Court notes were based on the documents Defendants produced were adequate.

The motion to preclude evidence of Mario Sbarro's wealth is granted. This evidence is irrelevant.

As to the compilation of damages, the parties are directed to discuss the proposed tables and work out any objections Defendants have. The table should be clear that they are amounted "claimed" so as to avoid any implication that liability is established or

conceded. If an agreement cannot be reached Plaintiffs can attempt to introduce one or more tables at trial and the Court will give a ruling.

As to the newspaper articles, the motion is granted. The articles are hearsay. That being said, any photograph, in and of itself can be introduced consistent with the applicable rules of evidence.

DE [126], the motion to extend time to submit the pretrial order, voir dire and the proposed jury charge is granted. All pretrial documents will be submitted no later than April 17, 2019.

In terms of trial, six Plaintiffs will be testifying as to liability. These individuals will be identified as such in the pretrial order.

COURT APPEARANCES:

The following conference(s) will be held in courtroom 820 of the Central Islip courthouse:

5/6/2019 at 9:30 am : Jury Selection and Trial

SO ORDERED

/s/Steven I. Locke
STEVEN I. LOCKE
United States Magistrate Judge